

### **REMARKS**

This response is intended as a full and complete response to the non-final Office Action mailed April 22, 2008. In the Office Action, the Examiner notes that claims 1-64 are pending and rejected. By this response, Applicants have amended claims 1, 6, 26, 34, 43 and 59 to further clarify the claims. Support for the amendments may be found in the Applicants' specification on at least page 36, line 6 – page 39, line 10.

In view of both the amendments presented above and the following discussion, Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, Applicants believe that all of the claims are now in allowable form.

It is to be understood that Applicants, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the prior art of record to the pending claims by filing the instant response including amendments.

### **REJECTION OF CLAIMS 1-64 UNDER 35 U.S.C §103**

#### **Claims 1-13, 15-33, 43-50, 52-54, 56, 57, and 59-64**

The Examiner has rejected claims 1-13, 15-33, 43-50, 52-54, 56, 57, and 59-64 under 35 U.S.C. §103(a) as being unpatentable over Rosser (6,446,261, hereinafter "Rosser") in view of Kitsukawa et al. (6,282,713, hereinafter "Kitsukawa"), O'Toole, Jr. et al. (6,279,112, hereinafter "O'Toole") and Kurtzman, II et al. (6,144,944, hereinafter "Kurtzman"). The rejection is traversed.

The Applicants respectfully submit that Rosser, Kitsukawa, O'Toole and Kurtzman alone or in combination fail to teach or suggest Applicants' invention of at least claim 1 as a whole.

Independent claim 1 recites:

1. A method for targeting interactive virtual advertisements, comprising:  
assigning at least one interactive spot to a program;

assigning one or more interactive virtual objects to the at least one virtual advertisement spot, wherein said one or more interactive virtual objects are dynamic;

generating a retrieval plan;

providing the retrieval plan to a terminal, wherein the retrieval plan instructs the terminals to select one of the one or more interactive virtual objects selected from a ranked list of the one or more interactive virtual objects, wherein said ranked list is determined at least by a measure of effectiveness for each one of said one or more interactive virtual objects in each one of said at least one virtual advertisement spot;

allocating delivery bandwidth within an available amount of total bandwidth in a communication channel for the selected one of the one or more interactive virtual objects via a resource management engine;

delivering the selected one of the one or more interactive virtual objects via said allocated delivery bandwidth;

receiving a selection of at least one of the one or more interactive virtual objects;

logging the received selection of said at least one of the one or more interactive virtual objects; and

billing an advertiser of said selected at least one of the one or more interactive virtual objects in response to said logged selection. (Emphasis added).

In an exemplary embodiment, Applicants' invention uses a measure of effectiveness for each virtual object if displayed in a corresponding virtual object location in determining a ranked list of the virtual interactive objects. (See *Id.* at p. 36, l. 6 – p. 37, l. 3) Furthermore, Applicants' invention logs selection of interactive advertisements for billing an advertiser based upon the positive indication that an advertisement was actively viewed by a subscriber. (See *Id.* at p. 69, lines 15-23).

The Examiner concedes that Rosser, Kitsukawa and O'Toole fail to teach or suggest providing the retrieval plan to a terminal, wherein the retrieval plan instructs the terminals to select one of the one or more interactive virtual objects selected from a ranked list of the one or more interactive virtual objects, wherein said ranked list is determined at least by a measure of effectiveness for each one of said one or more interactive virtual objects in each one of said at least one virtual advertisement spot or interactive virtual object locations of one or more interactive virtual object locations. (See Office Action, p. 5, ll. 10-13). However, the Examiner asserts that Kurtzman

bridges the substantial gap left by Rosser, Kitsukawa and O'Toole. The Applicants respectfully disagree.

Kurtzman fails to bridge the substantial gap left by Rosser, Kitsukawa and O'Toole because Kurtzman also fails to teach or suggest providing the retrieval plan to a terminal, wherein the retrieval plan instructs the terminals to select one of the one or more interactive virtual objects selected from a ranked list of the one or more interactive virtual objects, wherein said ranked list is determined at least by a measure of effectiveness for each one of said one or more interactive virtual objects in each one of said at least one virtual advertisement spot or interactive virtual object locations of one or more interactive virtual object locations. Kurtzman teaches that advertisements are matched reflecting the interests of the user, either expressed or based on demographic information. (See Kurtzman, col. 4, ll. 50-63). The results may be generated into a list. (See *Id.* at ll. 27-31 and col. 6, ll. 59-65).

However, nowhere in Kurtzman does Kurtzman teach or suggest also incorporating a virtual advertisement spot or interactive virtual object locations in measuring the effectiveness for each one of said one or more interactive virtual objects. In other words, Kurtzman does not contemplate the fact that where on a page the advertisement is located may influence the effectiveness of an advertisement. In stark contrast, the Applicants' invention measures the effectiveness for each one of said one or more interactive virtual objects in each one of said at least one virtual advertisement spot or interactive virtual object locations of one or more interactive virtual object locations. In other words, unlike the Applicants' invention uses a ranked list determined at least by a measure of effectiveness for each one of said one or more interactive virtual objects in each one of said at least one virtual advertisement spot or interactive virtual object locations of one or more interactive virtual object locations, Kurtzman teaches a relevance list ranked by the results of a matching algorithm of advertisements to a user's interests. Thus, the Applicants' invention allows a comparison to be made based upon where the one or more interactive virtual objects are located. This simply is not taught by Kurtzman.

Moreover, Rosser, Kitsukawa, O'Toole and Kurtzman fail to teach or suggest billing an advertiser of said selected at least one of the one or more interactive virtual

objects in response to said logged selection. As previously discussed, O'Toole teaches charging a user on a per-usage basis for the user's access to information. (See O'Toole, col. 3, ll. 21-30). Notably, a metering log is activated when a user activates a link to documents. (See *Id.* at col. 11, l. 34 – col. 12, l. 38). O'Toole mentions that the metering log may be used for advertising feedback. (See *Id.* at col. 12, ll. 39-48). However, the advertiser is only charged whenever a client computer displays portions of documents on which advertisements are also displayed. Notably, the metering does not track a selection of the advertisement itself. In other words, O'Toole simply teaches that an advertiser is charged when their advertisement is displayed. In contrast, Applicants' invention teaches billing an advertiser when an advertiser's interactive virtual object is selected. Therefore, the combination of Rosser, Kitsukawa, O'Toole and Kurtzman, alone or in combination, do not teach or suggest Applicants' invention of at least claim 1 as a whole.

Independent claims 6, 26, 43 and 59 recite relevant limitations similar to those recited in independent claim 1. As such, for at least the same reasons discussed above, Applicants submit that independent claims 6, 26, 43 and 59 also are not obvious and are patentable over Rosser, Kitsukawa, O'Toole and Kurtzman under 35 U.S.C. §103. Furthermore claims 2-5, 7-13, 15-25, 27-33, 44-50, 52-54, 56, 57, and 60-64 depend directly or indirectly from independent claims 1, 26, 43 and 59 while adding additional elements. Therefore, these dependent claims also are not obvious and are patentable under 35 U.S.C. §103 for at least the same reasons discussed above in regards to independent claims 1, 26, 43 and 59. Therefore, the rejection should be withdrawn.

#### **Claim 14**

Claim 14 is rejected under 35 U.S.C. §103(a) as being unpatentable over Rosser, Kitsukawa, O'Toole and Kurtzman as applied to claim 13 above, and further in view of Hendricks et al. (5,600,364, hereinafter "Hendricks") and Del Sesto et al. (6,530,082, hereinafter "Sesto"). The rejection is traversed.

This ground of rejection applies only to a dependent claim and is predicated on the validity of the rejection under 35 U.S.C. §103 given Rosser in view of Kitsukawa,

O'Toole and Kurtzman for the corresponding independent claim. Since the rejection of the corresponding independent claim under 35 U.S.C. §103 has been overcome, as described hereinabove, and there is no argument put forth by the Office Action that Hendricks and DelSesto alone or in combination supply that which is missing from Rosser in view of Kitsukawa, O'Toole and Kurtzman to render the independent claim obvious, this ground of rejection cannot be maintained. Therefore, the rejection should be withdrawn.

#### **Claims 34-42**

Claims 34-42 are rejected under 35 U.S.C. §103(a) as being unpatentable over Rosser in view of Kitsukawa, Zigmond et al. (6,698,020, hereinafter "Zigmond"), O'Toole and Kurtzman. The rejection is traversed.

For at least the reasons discussed above in response to the Examiner's 35 U.S.C. §103(a) rejection of independent claim 1, Rosser, Kitsukawa, O'Toole and Kurtzman alone or in combination fail to teach or suggest Applicants' invention as a whole. In particular, Rosser, Kitsukawa, O'Toole alone or in combination are devoid of any teaching or suggestion of Applicants' invention of a terminal for targeting interactive virtual objects comprising an interactive virtual object selector processor coupled to the storage processor that determines an interactive virtual object placement for one or more stored interactive virtual objects selected from a ranked list of said interactive virtual objects, wherein said ranked list is determined at least by a measure of effectiveness for each one of said interactive virtual objects in each interactive virtual object location of said interactive virtual object locations and a computer readable memory for logging a received selection of at least one of the interactive virtual objects, wherein said logged selection is used for billing an advertiser of said selected at least one of the interactive virtual objects, as recited in at least claim 34.

Zigmond fails to bridge the substantial gap between Rosser, Kitsukawa, O'Toole and Kurtzman because Zigmond also fails to teach or suggest a terminal for targeting interactive virtual objects comprising an interactive virtual object selector processor coupled to the storage processor that determines an interactive virtual object placement for one or more stored interactive virtual objects selected from a ranked list of said

interactive virtual objects, wherein said ranked list is determined at least by a measure of effectiveness for each one of said interactive virtual objects in each interactive virtual object location of said interactive virtual object locations and a computer readable memory for logging a received selection of at least one of the interactive virtual objects, wherein said logged selection is used for billing an advertiser of said selected at least one of the interactive virtual objects. Zigmond only teaches techniques for intelligent video ad insertion. (See Zigmond, Abstract).

As such, Applicants submit that independent claim 34 is not obvious and is patentable over Rosser in view of Kitsukawa, Zigmond, O'Toole and Kurtzman under 35 U.S.C. §103. Furthermore claims 35-42 depend directly or indirectly from independent claim 34 while adding additional elements. Therefore, these dependent claims also are not obvious and are patentable under 35 U.S.C. §103 for at least the same reasons discussed above in regards to independent claim 34. Therefore, the rejection should be withdrawn.

#### **Claim 51**

Claim 51 is rejected under 35 U.S.C. §103(a) as being unpatentable over Rosser, Kitsukawa, O'Toole and Kurtzman as applied to claim 50 above, and further in view of DelSesto. The rejection is traversed.

This ground of rejection applies only to a dependent claim and is predicated on the validity of the rejection under 35 U.S.C. §103 given Rosser in view of Kitsukawa, O'Toole and Kurtzman for the corresponding independent claim. Since the rejection of the corresponding independent claim under 35 U.S.C. §103 has been overcome, as described hereinabove, and there is no argument put forth by the Office Action that DelSesto supplies that which is missing from Rosser in view of Kitsukawa, O'Toole and Kurtzman to render the independent claim obvious, this ground of rejection cannot be maintained. Therefore, the rejection should be withdrawn.

#### **Claims 55 and 58**

Claims 55 and 58 are rejected under 35 U.S.C. §103(a) as being unpatentable over Rosser, Kitsukawa, O'Toole and Kurtzman as applied to claims 43 and 54 above,

and further in view of Zigmond. The rejection is traversed.

This ground of rejection applies only to dependent claims and is predicated on the validity of the rejection under 35 U.S.C. §103 given Rosser in view of Kitsukawa, O'Toole and Kurtzman for the corresponding independent claim. Since the rejection of the corresponding independent claim under 35 U.S.C. §103 has been overcome, as described hereinabove, and there is no argument put forth by the Office Action that Zigmond supplies that which is missing from Rosser in view of Kitsukawa, O'Toole and Kurtzman to render the independent claim obvious, this ground of rejection cannot be maintained. Therefore, the rejection should be withdrawn.


### **CONCLUSION**

Thus, Applicants submit that none of the claims, presently in the application, are obvious under the provisions of 35 U.S.C. §103. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall or Jimmy Kim, at (732) 530-9404, so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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